

1 CABINET FOR HEALTH AND FAMILY SERVICES

2 Office of Health Policy

3 (Amendment)

4 900 KAR 6:125. Certificate of need annual surveys.

5 RELATES TO: KRS 216B.015

6 STATUTORY AUTHORITY: KRS 216B.040(3)(a) ~~[216B.040(2)(a)1]~~

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.040(3)(a) authorizes the
8 Cabinet for Health and Family Services to issue administrative regulations necessary for
9 the proper administration of KRS Chapter 216B ~~[KRS 216B.040(2)(a)1 requires the~~
10 ~~Cabinet for Health and Family Services to administer Kentucky's Certificate of Need~~
11 ~~Program and to promulgate administrative regulations as necessary for the program]. This~~
12 administrative regulation establishes the requirements for submission of annual survey
13 data to the cabinet for publication of annual reports necessary for the orderly
14 administration of the Certificate of Need Program.

15 Section 1. Definitions. (1) "Cabinet" is defined by KRS 216B.015(6).

16 (2) "Days" means calendar days, unless otherwise specified.

17 (3) "Long term care facility" means any entity with licensed long term care beds
18 including nursing facility, nursing home, intermediate care, Alzheimer's, intermediate care
19 facility for individuals with and intellectual disability, or personal care.

20 (4) "Office of Inspector General" means the office within the Cabinet for Health and
21 Family Services that is responsible for licensing ~~[and regulatory functions of]~~ health

1 facilities and services.

2 (5) "Owner" means a person as defined in KRS 216B.015(22) who is applying for the
3 certificate of need and will become the licensee of the proposed health service or facility.

4 (6) "Year" means a calendar year from January 1 through December 31.

5 Section 2. Entities Completing Surveys. If requested by the cabinet, the following
6 entities shall submit annual utilization surveys:

7 (1) Licensed ambulatory surgery center [~~centers~~];

8 (2) Licensed hospital [~~hospitals~~] performing ambulatory surgery services;

9 (3) Licensed home health agency [~~agencies~~];

10 (4) Licensed hospice [~~agencies~~];

11 (5) Licensed hospital [~~hospitals~~];

12 (6) Licensed private duty nursing agency [~~agencies~~];

13 (7) Licensed long term care facility [~~Facilities with licensed long term care beds~~];

14 (8) Licensed facility or service with [~~Entities that hold a certificate of need for~~] MRI
15 equipment;

16 (9) Licensed facility [~~Facilities~~] with megavoltage radiation equipment;

17 (10) Licensed psychiatric residential treatment facility [~~facilities; and~~]

18 (11) Licensed facility or service [~~Facilities~~] with positron emission tomography
19 equipment; and

20 (12) Licensed chemical dependency treatment facility.

21 Section 3. Annual Survey Submission. An annual survey, if requested by the cabinet,
22 shall be completed for the previous year and transmitted electronically by accessing the
23 Office of Health Policy's Web site at <https://prd.chfs.ky.gov/OHPSurvey/>.

Section 4. ~~[Surveys shall be submitted annually as follows:~~

~~(1) Kentucky Health Survey Registry Ambulatory Surgery II;~~

~~(2) Kentucky Health Survey Registry Home Health II;~~

~~(3) Kentucky Health Survey Registry Hospice;~~

~~(4) Kentucky Health Survey Registry Hospital;~~

~~(5) Kentucky Health Survey Registry Private Duty Nursing;~~

~~(6) Kentucky Health Survey Registry Long Term Care;~~

~~(7) Kentucky Health Survey Registry Magnetic Resonance Imaging;~~

~~(8) Kentucky Health Survey Registry Megavoltage Radiation (Linear Accelerator);~~

~~(9) Kentucky Health Survey Registry Psychiatric Residential Treatment Facility; and~~

~~(10) Kentucky Health Survey Registry Positron Emission Tomography.~~

~~Section 5.] If requested by the cabinet, an annual survey [surveys] shall be completed~~
and submitted no later than March 15th of each year. If the 15th falls on a weekend or
holiday, the submission due date shall be the next working day.

Section 5. ~~[6-]~~ Extensions for Survey Submission. (1) A request for an extension for
submission of data shall be made in writing or via email to the Office of Health Policy.

(2) The request for an extension shall state the facility name, survey log-in
identification number, contact person, contact phone number, contact email address, and
a detailed reason for the requested extension.

(3) One (1) extension per survey of up to ten (10) days shall be granted.

(4) An additional extension shall only be granted if circumstances beyond the entity's
control prevents timely completion of a survey.

Section 6. ~~[7-]~~ Data Corrections to Draft Annual Reports Utilizing Data Submitted in

1 the Annual Surveys. (1)(a) Prior to the release of a draft report to a facility for its review,
2 the Office of Health Policy shall review data for completeness and accuracy.

3 (b) If an error is identified, the facility shall be contacted by the Office of Health Policy
4 and allowed fourteen (14) days to make corrections.

5 (2)(a) Prior to publication of the reports, the Office of Health Policy shall publish draft
6 reports available only to the entities included in each individual report.

7 (b) Each facility shall be notified of a Web site and provided with a login identification
8 and password required to access each applicable draft report and shall have fourteen
9 (14) days to review the data for errors.

10 (c) Corrections shall be submitted in writing or via email to the Office of Health Policy
11 before the expiration of the fourteen (14) day review period.

12 (3)(a) After publication of the reports, reports shall not be revised as a result of data
13 reported to the Office of Health Policy incorrectly by the facility.

14 (b) Corrections received after the fourteen (14) day review period shall not be reflected
15 in the published report.

16 (c) A facility may provide a note in the comments section for the following year's report,
17 referencing the mistake from the previous year.

18 Section 7. [8.] Annual Reports. (1) Utilizing data submitted in the annual surveys, the
19 Office of Health Policy shall publish reports annually [as follows:

20 ~~(a) Kentucky Annual Ambulatory Surgical Services Report;~~

21 ~~(b) Kentucky Annual Home Health Services Report;~~

22 ~~(c) Kentucky Annual Hospice Services Report;~~

23 ~~(d) Kentucky Annual Hospital Utilization and Services Report;~~

- ~~(e) Kentucky Annual Private Duty Nursing Agency Report;~~
- ~~(f) Kentucky Annual Long Term Care Services Report;~~
- ~~(g) Kentucky Annual Magnetic Resonance Imaging Services Report;~~
- ~~(h) Kentucky Annual Megavoltage Radiation Services Report;~~
- ~~(i) Kentucky Annual Psychiatric Residential Treatment Facility Report; and~~
- ~~(j) Kentucky Annual Positron Emission Tomography Report].~~

(2) Electronic copies of annual reports may be obtained at no cost from the Office of Health Policy's Web site at <http://chfs.ky.gov/ohp/dhppd/dataresgal.htm>. A paper copy may be obtained for a fee of twenty (20) dollars at the Cabinet for Health and Family Services, Office of Health Policy, 275 East Main Street 4WE, Frankfort, Kentucky 40621.

Section 8. ~~[9:]~~ A facility that fails to complete a required annual survey shall be referred to the Office of Inspector General for further action which may impact the facility's license renewal as provided for in 902 KAR 20:008, Section 2(14)(b)4 ~~[2(6)]~~.

~~[Section 10. Incorporation by Reference. (1) The following material is incorporated by reference:~~

- ~~(a) "Kentucky Health Survey Registry Ambulatory Surgery II", screen prints, June 2014;~~
- ~~(b) "Kentucky Health Survey Registry Home Health II", screen prints, June 2014;~~
- ~~(c) "Kentucky Health Survey Registry Hospice", screen prints, June 2014;~~
- ~~(d) "Kentucky Health Survey Registry Hospital", screen prints, June 2014;~~
- ~~(e) "Kentucky Health Survey Registry Private Duty Nursing", screen prints, June 2014;~~
- ~~(f) "Kentucky Health Survey Registry Long Term Care", screen prints, June 2014;~~
- ~~(g) "Kentucky Health Survey Registry Magnetic Resonance Imaging", screen prints,~~

1 June 2014;

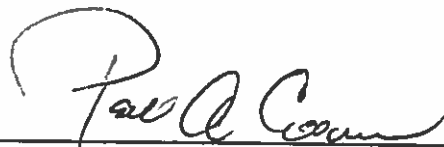
2 ~~(h) "Kentucky Health Survey Registry Megavoltage Radiation (Linear Accelerator)",~~
3 ~~screen prints, June 2014;~~

4 ~~(i) "Kentucky Health Survey Registry Psychiatric Residential Treatment Facility",~~
5 ~~screen prints, June 2014; and~~

6 ~~(j) "Kentucky Health Survey Registry Positron Emission Tomography", screen prints,~~
7 ~~June 2014.~~

8 ~~(2) This material may be inspected, copied, or obtained, subject to applicable~~
9 ~~copyright law, at the Cabinet for Health and Family Services, 275 East Main Street,~~
10 ~~Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.]~~

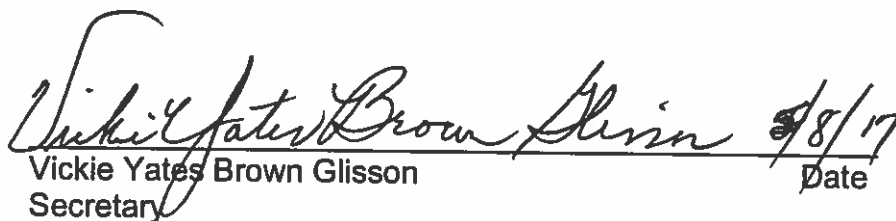
900 KAR 6:125



Paul A. Coomes
Executive Director
Office of Health Policy

4-5-17
Date

APPROVED:



Vickie Yates Brown Glisson
Secretary

4/8/17
Date

900 KAR 6:125

PUBLIC HEARING AND PUBLIC COMMENT PERIOD:

A public hearing on this administrative regulation shall, if requested, be held on June 21, 2017 at 9:00 a.m. in Conference Suite B, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing by June 14, 2017, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. You may submit written comments regarding the proposed administrative regulation until June 30, 2017. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Tricia Orme, Administrative Specialist, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, KY 40621, Phone: (502) 564-7905, Fax: (502) 564-7573, email address: tricia.orme@ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation: 900 KAR 6:125
Contact Person: Diona Mullins, Executive Advisor
Office of Health Policy
Email: diona.mullins@ky.gov
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Tricia Orme
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(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements for submission of annual utilization survey data to the Office of Health Policy.

(b) The necessity of this administrative regulation: KRS 216B.040(3)(a) authorizes the Cabinet for Health and Family Services to issue administrative regulations necessary for the proper administration of KRS Chapter 216B. The amendment is necessary to clarify the requirements for submission of annual utilization survey data to the Office of Health Policy.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 216B.040(3)(a) authorizes the Cabinet for Health and Family Services to issue administrative regulations necessary for the proper administration of KRS Chapter 216B. The amendment is necessary to clarify the requirements for submission of annual utilization survey data to the Office of Health Policy.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing the requirements for submission of annual utilization survey data to the Office of Health Policy.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The regulation has been revised to clarify that annual surveys shall be submitted if requested by the cabinet. It is the Cabinet's desire to eliminate the duplication of reporting by health care facilities. A facility will not be required to complete the annual surveys if the facility is currently submitting administrative claims data which could be used to generate annual utilization reports. The four (4) licensed chemical dependency treatment facilities were added to the list of facilities to be surveyed. Previously, only hospitals with chemical dependency beds were required to submit surveys. The amendment also deletes the incorporation by reference of the survey forms, allowing the Cabinet needed flexibility to revise forms as facilities are phased out of the annual survey process.

(b) The necessity of the amendment to this administrative regulation: The regulation has been revised to clarify that annual surveys shall be submitted if requested by the

cabinet. Licensed chemical dependency treatment facilities will also be surveyed. The amendment also deletes the incorporation by reference of the survey forms, allowing the Cabinet needed flexibility to revise forms as facilities are phased out of the annual survey process

(c) How the amendment conforms to the content of the authorizing statutes: It is the Cabinet's desire to eliminate the duplication of reporting by health care facilities. A facility will not be required to complete the annual surveys if the facility is currently submitting administrative claims data which could be used to generate annual utilization reports.

(d) How the amendment will assist in the effective administration of the statutes: This amendment conforms to the content of the authorizing statutes by clarifying that annual surveys shall be submitted, if requested by the cabinet.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The amendment affects the licensed health facilities and services required to submit annual surveys.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The four (4) licensed chemical dependency treatment facilities will be required to submit annual utilization surveys. Previously, only hospitals with chemical dependency treatment beds were required to submit surveys.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The cost to submit a survey report is negligible. Our desire is to utilize claims data, eliminating the requirement for providers to have to complete the annual utilization surveys.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Some licensed health facilities will no longer be required to submit utilization surveys if the facilities submit administrative claims data.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: This administrative regulation imposes no costs on the administrative body.

(b) On a continuing basis: This administrative regulation imposes no costs on the administrative body.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No funding is necessary to implement the administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an

amendment: No fee or funding increase is necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: The administrative regulation does not establish or increase any fees.

(9) TIERING: Is tiering applied? (explain why or why not) Tiering is not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Administrative Regulation Number: 900 KAR 6:125

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1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation does not impact a state or local government entity.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 216B.040(3)(a).

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation does not generate revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate revenue for state or local government.

(c) How much will it cost to administer this program for the first year? This administrative regulation imposes no costs on the administrative body.

(d) How much will it cost to administer this program for subsequent years? This administrative regulation imposes no costs on the administrative body.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: